Notice of Allowability	Application No.	Applicant(s)	
	10/697,100	NAKADA, MASATO	
	Examiner	Art Unit	
	Matthew D. Dryden	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *10/31/2003*.

2. ☒ The allowed claim(s) is/are *1-16*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 10/31/03, 5/19/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Allowable Subject Matter

Claims 1-16 are allowed.

The following is an examiner's statement of reasons for allowance: The closest piece of art that reads on some of the limitations of the independent claim is that of Cha et al (5335667). Cha et al disclose a body composition apparatus for determining body composition using bioelectrical impedance that includes: electrodes for providing current to the body and measuring the impedance and a slidable measuring tape for determining the circumference of the limb being analyzed. Cha does not disclose or suggest a device for measuring the specific width and length of a muscle of interest, the measuring tape (element 118 in Figure 5) and system of Cha et al is not capable of being used to measure the width and length of the muscle being investigated, the measuring tape is only slidable in one direction. Cha et al does disclose to measure the length of the segment being investigated but does not provide a device to also monitor the width of the space being investigated, which is an essential part to the muscular tissue effective length measuring device. Lastly, Cha et al does not teach to determine the muscle fatigue, only the body mass index and fat percentage from the impedance measurements that are gathered. The main patentable feature of the current application is viewed as the muscular tissue effective length measuring portions, which Cha et al does not disclose.

Another patent that is similar to the one disclosed by the applicant is that of Fukuda (6516222). Fukuda discloses an apparatus for determining degree of fatigue of

the human body. The main aspect that Fukuda lacks is ranging portions that are capable of determining a width and length of a given muscle. Fukuda teaches a fatigue monitoring system that includes determining the impedance of a given tissue area, uses the information to determine intracellular and extracellular fluid resistivity. However, Fukuda does not teach a portion or portions that measure the length or width of the desired portion. Other patents that are similar to the current application can be found in the prior art section, immediately succeeding this section.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent Application Publication 2004/0167386 A1 Kasahara et al disclose an animal health care system

U.S. Pat. No. 6,714,814 Yamada et al disclose a bioelectrical impedance measuring apparatus

U.S. Pat. No. 6,468,232 Ashton-Miller et al disclose a method and apparatus for measuring properties of the pelvic floor muscles

U.S. Patent Application Publication 2004/0082877 A1 Kouou et al disclose a muscle measuring device

U.S. Pat. No. 6,185,451 Richardson et al disclose a muscle function assessment apparatus and method

U.S. Pat. No. 4,667,513 Konno discloses a method and apparatus for detecting muscular fatigue.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Dryden whose telephone number is (571) 272-6266. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MDD

MAX F. HINDENBURG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700